

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

Cedric Greene,

Plaintiff,

v.

Greyhound Lines, Inc.,

Defendant.

Case No. 2:15-cv-00174-RFB-GWF

ORDER

**I. BACKGROUND**

On January 1, 2015, Plaintiff Cedric Greene filed an Application for Leave to Proceed in Forma Pauperis. ECF No. 1.

On March 27, 2015, Magistrate Judge Foley granted the Application and screened the complaint, pursuant to 28 U.S.C. 1915(e). ECF No. 2. Upon screening the complaint, the magistrate judge dismissed the complaint 1) for failure to state a claim upon which relief can be granted and 2) for improper venue. Id. Judge Foley allowed Greene until April 27, 2015, to file an amended complaint to address these issues.

On April 8, 2015, Greene filed the instant Partial Objection. ECF No. 3. On April 17, Greene filed a Motion to Extend Time to allow him to amend his complaint after the Partial Objection was decided. ECF No. 4.

**II. LEGAL STANDARD**

Though Greene cites Federal Rule of Civil Procedure 72(b)(2), which allows for objections to magistrate judge recommendations on dispositive matters, Greene's objection is more properly brought under Rule 72(a), which allows for district judge reconsideration of

1 magistrate judge orders on nondispositive matters. See McKeever v. Block, 932 F.2d 795, 798  
 2 (9th Cir. 1991). Under Rule 72(a), “[t]he district judge in the case must consider timely  
 3 objections and modify or set aside any part of the order that is clearly erroneous or is contrary to  
 4 law.” Fed. R. Civ. P. 72(a); accord D. Nev. R. IB 3-1.

5 Thus, the standard of review this Court must apply is “whether the magistrate judge's  
 6 findings were clearly erroneous or contrary to law.” Doe v. Kamehameha Sch./Bernice Pauahi  
 7 Bishop Estate, 596 F.3d 1036, 1042 n.4 (9th Cir. 2010).

### 8 9 **III. DISCUSSION**

10 Here, the magistrate judge dismissed Greene’s complaint 1) for failure to state a claim  
 11 upon which relief can be granted and 2) for improper venue. Greene objects only to the transfer  
 12 of venue. Partial Objections 1, ECF No. 3.

#### 13 14 **A. The Magistrate Judge’s Order**

15 As an initial matter, it is important to consider what the magistrate judge did—and did  
 16 not—order. In relevant part, the magistrate judge’s Order stated,

17 There is no indication that the District of Nevada is the proper venue for  
 18 this case, and the Plaintiff should not be allowed to escape the vexatious  
 19 litigant determination of the California courts by simply filing in Nevada  
 20 with no other reason for doing so. To allow such circumvention would not  
 21 be in the interests of justice. *Should the Plaintiff wish to bring this claim*  
*in the District of Nevada, there must be a more definitive statement of why*  
*this venue is appropriate, and why this matter should not be transferred*  
*back to California.*

22 The Court cannot state, however, that Plaintiff cannot cure the complaint  
 23 through amendment. A more detailed pleading of the elements of  
 24 negligence and a clear statement of the basis for this Court’s jurisdiction  
 25 may be sufficient for the case to move forward. Therefore, the Court will  
 26 dismiss the complaint, without prejudice, so that the Plaintiff has the  
 27 opportunity to amend. *Should the Plaintiff choose to file the amended*  
*complaint, it is still possible that the case will be transferred to California*  
*as the more appropriate jurisdiction.*

28 Order 4, ECF No. 2:3–15 (emphasis added). The magistrate judge did not order transfer of the  
 case to California. Rather, the magistrate judge concluded that the Complaint inadequately  
 establishes why venue in Nevada is proper, gave Greene an opportunity amend the complaint to

1 address venue issues (as well as certain identified substantive issues), and noted that it was  
2 possible that Greene’s complaint may survive and yet be transferred to be California. It is this  
3 specific ruling *only*—the order of dismissal with leave to amend—that this Court reconsiders at  
4 this time: not the broader question of where venue may or may not be appropriate.

5  
6 **B. Venue Law**

7 28 U.S.C. § 1391(b) establishes by statute three general situations in which venue is  
8 appropriate.

9 First, if all defendants are residents of the state in which the district is located, venue is  
10 proper in a district in which any defendant resides. 28 U.S.C. § 1391(b)(1). Corporations are  
11 “deemed to reside ... in any judicial district in which such defendant is subject to the court’s  
12 personal jurisdiction with respect to the civil action in question.” 28 U.S.C. § 1391(c)(2). In  
13 effect, venue can be satisfied by proof that the corporate defendant is subject to personal  
14 jurisdiction in the district. Personal jurisdiction can be either general or specific. General  
15 personal jurisdiction is an exacting standard which requires “continuous and systematic” contacts  
16 that “approximate physical presence.” Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797,  
17 801 (9th Cir. 2004). Specific jurisdiction requires that (1) the defendant must have purposefully  
18 directed specific activities toward the state forum, (2) the plaintiff’s claim must arise out of or  
19 relate to those specific forum-related activities, and (3) the exercise of jurisdiction must comport  
20 with fair play and substantial justice, i.e. be reasonable. Id. at 802.

21 Alternatively, venue is proper in a district in which a “substantial part of the events or  
22 omissions” giving rise to the claim occurred, or in which a “substantial part of property” that is  
23 the subject of the action is situated. 28 U.S.C. § 1391(b)(1).

24 Finally, if there is no district in which venue proper based on residence or location of  
25 events or omissions, venue is proper where any defendant is subject to the court’s personal  
26 jurisdiction. 28 U.S.C. § 1391(b)(3).

27 “The district court of a district in which is filed a case laying venue in the wrong division  
28 or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or

1 division in which it could have been brought.” 28 U.S.C. § 1406(a).

2  
3 **C. Application**

4 The events giving rise to the lawsuit appear to have taken place exclusively within  
5 California. On the basis of the information contained within the Complaint, it appears that  
6 Plaintiff Greene is a resident of Los Angeles, California, who travelled to Oakland, California.  
7 This travel involved the purchase of a ticket from Greyhound online and subsequent interactions  
8 with Greyhound at an Oakland station and the Oakland police which form the basis of the  
9 complaint. These facts suggest venue may be proper in certain California districts, but do not  
10 appear to suggest venue is proper in the district of Nevada.

11 Furthermore, it is not possible, based on the facts alleged in the Complaint, for the Court  
12 to establish that it has personal jurisdiction over defendant Greyhound (and by extension, that  
13 venue is proper in the district of Nevada) in this matter. The Complaint simply alleges nothing  
14 which describes what ties Greyhound may have to Nevada.

15 Based on these alleged facts, then, the Court cannot conclude that the magistrate judge’s  
16 Order was “clearly erroneous or contrary to law” in determining that the Complaint inadequately  
17 demonstrates how venue in Nevada is proper and consequently ordering Greene to amend his  
18 complaint. Therefore, Greene’s Objection is denied. To be clear, however, the Court is *not* at  
19 this time evaluating whether dismissal or transfer for venue or any other reasons is proper, as  
20 those questions are not presently before the Court.

21  
22 **D. Motion to Extend Time**

23 In light of the Court’s denial of Greene’s Partial Objections, the Court finds it appropriate  
24 to reset the deadline by which Greene may amend his complaint to address the substantive and  
25 venue issues identified in the magistrate judge’s screening Order, ECF No. 2. Accordingly,  
26 Greene shall have thirty days from the issuance of this order to file an amended complaint.

1 **IV. CONCLUSION**

2 For the reasons discussed above,

3 IT IS ORDERED that Plaintiff's Partial Objections, ECF No. 3, is DENIED, and  
4 Magistrate Judge Order, ECF No. 2, is AFFIRMED.

5 IT IS FURTHER ORDERED that Motion to Extend Time, ECF No. 4, is GRANTED.  
6 Greene may have until June 8, 2015 to amend his Complaint in response to the March 27, 2015  
7 Order.

8 Dated: May 7, 2015.

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RICHARD F. BOULWARE, II  
12 UNITED STATES DISTRICT COURT  
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